

REMARKS

Claims 1-47 are pending in this application. Claims 4-30, 32-36, and 44-47 have been withdrawn from consideration. Claims 1-3, 31, and 37-43 have been rejected. Claims 1, 37, and 41 have been amended to more clearly define the invention. New claims 48 and 49 have been added. Support for these new claims can be found in paragraph [0020] of the specification. No new matter is being hereby introduced. Applicants reserve the right to file a continuation or divisional application claiming the subject matter of the withdrawn claims which continuation or divisional application claims priority to the present application.

Rejections under 35 U.S.C. § 102(e):

The Examiner rejects claims 1-3, 31, and 37-43 as being anticipated by Horton, Jr. et al., which discloses a bulk metallic glass for use as a medical instrument. Applicants have amended claims 1, 37, and 41 to include the phrase “wherein said amorphous metal alloy is selected from the group consisting of a copper-based alloy having a metalloid, an iron-based alloy, and a cobalt-based alloy.” Support for these amendments can be found in paragraph [0020] of the specification. Horton, Jr. et al. does not disclose or suggest the subject matter of the instant claims. The Horton reference does not teach or suggest any iron-based alloy or any cobalt-based alloy, and as relates to copper-based alloys, the Horton reference specifically states that such alloys are not useful for medical devices, unless it has the special combination described for the BMG alloy (*i.e.*, Zr-17.9, Cu-14.6, Ni-5.0, Ti- 10.0; all in atomic %). In this regard, Horton states: “While copper is the metal with a susceptibility closest to that of living human or animal tissue, it is too soft for many uses, especially medical instruments and implants.” (Horton, para. [0037]).

For these reasons, applicants believe these claims are in condition for allowance. Additionally, dependent claims of claims 1, 37, and 41 are believed to be in condition for allowance.

Regarding claim 31, applicants traverse the rejection on the grounds that Horton, Jr. et al. is silent regarding the use of amorphous metal alloys in stents; stents are neither taught nor suggested in this prior art.

CONCLUSION

Based on the foregoing amendments and remarks, applicants believe that this application is in condition for allowance and respectfully request reconsideration and withdrawal of the rejection of claims and allowance of this application.

If the Examiner disagrees or has any suggestions to expedite this allowance, the Examiner is invited to contact the below mentioned attorney.

AUTHORIZATION

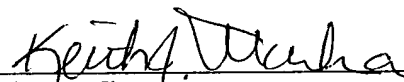
The Commissioner is hereby authorized to charge any additional fees which may be required for consideration of this Amendment to Deposit Account No. 13-4500, Order No. 4396-4001. A DUPLICATE OF THIS DOCUMENT IS ATTACHED.

In the event that an extension of time is required, or which may be required in addition to that requested in a petition for an extension of time, the Commissioner is requested to grant a petition for that extension of time which is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to Deposit Account No. 13-4500, Order No. 4396-4001. A DUPLICATE OF THIS DOCUMENT IS ATTACHED.

Respectfully submitted,
MORGAN & FINNEGAN, L.L.P.

Dated: 5/18/05

By: _____


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